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THE BUSINESS ADVOCATE



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What exactly is a "small business?"

By Marcel F. Schaerer, B&I Deputy Director

I grew up witnessing both my mother and father prosper as small business owners. The exposure to family business throughout my childhood led me to a great deal of admiration for small business owners and entrepreneurs. I saw my mom, a single mother of four children, working in her party rental business every single day of the week except Sunday afternoons. As a teenager, I remember watching my dad develop and cultivate relationships when running his bakery. I gained invaluable practical exposure to business operations as well as learning the importance of hard work, consistency and reliability. As an adult, I followed my parent's entrepreneurial path and founded a workforce consulting and training firm with my wife Sylvia in 1996. Small business is in my blood and it continues to play a significant role in my professional life today.

Today, there are an increasing number of people and organizations throughout Nevada focused on helping the small business sector. Growth and development of small business is also a priority for Governor Steve Sisolak. Since taking office, he and his administration have signaled that small businesses have a big part in the future of Nevada's continued economic expansion and success.

But, what exactly do we mean by a "small business?" It's a commonly used phrase, but there typically isn't a one-size-fits-all definition. Depending on the context and the person using it, small business means different things to different people. Here are a few different answers to help us understand what individuals may be thinking when they refer to a small business:

- A wide variety of service and retail operations, as well as internet-related businesses, employing 5 to 10 people
- Small or medium-size manufacturers that employ 200-250 people
- Concepts and terms such as self-employed, entrepreneur, and startup enterprises
- The U.S. Small Business Administration (SBA) generally defines it as firms with fewer than 500 employees varying in size by industry, legal structure, revenues and regulatory requirements
- Nevada Revised Statute 233B.0382 defines small business as a business conducted for profit which employs fewer than 150 full-time or part-time employees

Even though definitions and concepts can get a bit confusing, this essential sector is a big deal not only for the U.S. but also the Nevada economy. According to the SBA's 2019 Small Business Profile for Nevada, 270,079 or 99.2% of all firms in Nevada are small businesses.

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Small businesses indeed provide vital and innovative services and products, generate sales tax revenue and create thousands of great jobs in our communities. The size of small business also matters because it means opportunity to access free assistance, secure low-interest loans, receive government certification and contracts, and tap into certain benefits such as tax breaks.

I once read, "Small business is what you make of it." This short mantra conjures powerful images of the positive attributes of the people behind these endeavors, regardless of the number of employees. Here are a few essential ones that come to mind:

- Imagination to address and solve needs
- Passion and confidence to build something great
- Tenacity and resilience to make dreams a reality
- Willingness to work much, much harder
- Successful because of open minds, working hands, and caring hearts

What attributes of small business owners come to your mind that could be added to that list?

What I know with a high degree of certainty from our work and mission at the Department of Business & Industry, is that small businesses have a lot of needs. They need help in many different areas. They need help in planning, help with software, networking, training, licensing, location, legal structure, funding, taxes, certifications, marketing, hiring people, avoiding costly mistakes, and many others.

However, they don't have to do it alone. As I mentioned before, a great group of people and organizations exist to help folks with mentoring and specific needs. The *Guide to Starting and Growing a Business in Nevada* is a comprehensive resource that connects small businesses and entrepreneurs to information, organizations, tools and assistance. To explore the roadmap to small business, success visit the Department of Business and Industry website at <http://business.nv.gov>, go to "Business Resource Center" on the menu and click on "Nevada Business Startup Guide."



Nevada Global: Opening Doors to International Opportunity

By Pawel Pietrasienski, Ph.D, GOED Director of International Trade



welcome to
NEVADA
GLOBAL

Nevada Global is a program administered by the International Trade Division of the Governor's Office of Economic Development (GOED). The program launched in 2018 and has been gaining momentum ever since. Through the Nevada Global Platform, GOED helps to boost Nevada's presence internationally, while promoting Foreign Direct Investment opportunities and generating export growth for Nevada companies.

Nevada Global is a recruiting platform that enhances Nevada's position as an entry point into the U.S. market for international companies. The program is based on international partnerships with foreign regional authorities and their business agencies. Each foreign partner works with the division to administer a highly competitive selection process where foreign companies compete for selection to travel to Nevada and participate in the program to meet with many of our local mentors and partners. When foreign companies choose Nevada as their entry point to the U.S. market, it introduces additional foreign direct investment into our economy, new jobs, and higher wages.

The schedule for participating companies usually starts with a program in northern Nevada and ends with a specialized agenda in southern Nevada in order for participants to have an opportunity to work with our partners statewide. GOED plans an inclusive program that highlights Nevada and connects the companies to a wealth of resources. Participants get the opportunity to take exclusive tours and receive mentoring from experts in multiple sectors. The customized programs have been highly successful because of the strong international and local Nevada partnerships.

Currently, there are seven groups scheduled to visit Nevada to participate in the program during the months of October 2019 through May 2020. Each program is customized to meet the specific objectives of each group of participants. The participants come from all different sectors that could contribute to the growth and diversification of Nevada.

Since the program launched in 2018, 10 participants have registered to do business in Nevada, five participants are now members of a chamber of commerce in Nevada, and four companies have or are in the process of relocating and moving to Nevada.

So far, nearly 50 companies have taken part in the immersion programs in Northern and Southern Nevada representing industries including robotics and UAVs and aerospace, software development in artificial intelligence, internet of things and ed-tech, advanced manufacturing, biotechnology, agri-tech, gaming and hospitality, healthcare and medical devices, media, and business support and human resources.

We have 25 partners statewide including Adams Hub, Ozmen Center for Entrepreneurship at the University of Nevada, Reno, Economic Development Authority of Western Nevada, Governor's Office of Workforce Innovation, Henderson Chamber of Commerce, International Gaming Institute, UNLV, Nevada Department of Business and Industry, and so many other great organizations that have invested in helping us achieve the mission of the program.

It's Time to Start Thinking "Small"

You have likely heard of Black Friday and Cyber Monday, but do you know about Small Business Saturday? Each year since 2010 on the Saturday after Thanksgiving, holiday shoppers around the country are encouraged to patronize small, local businesses.

Why? Because small businesses are vital to the economy. In addition, "shopping small" can bring together the local community and provide positive social impact. Setting out to find goods and services offered by locally-owned businesses on this one day may also lead you to discover unique products and superior customer service not found in the big box stores.

Small business owners can participate in the 10th annual Small Business Saturday promotions sponsored by American Express. Extensive resources are available at <https://www.americanexpress.com/us/small-business/shop-small/?linknav=us-loy-nav-shopsmallbutton>.

With holiday décor already on store shelves, it's not too early to start planning for Small Business Saturday 2019.

Mark your calendars for SATURDAY, NOVEMBER 30 to SHOP SMALL NEVADA. If we all shop small, we can make a big difference in every corner of the state.



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Q: Why should I hire a business lawyer?

A: "I've never needed you." "I hope I never have to call you." "Thankfully I've never dealt with someone like you."

Those are common responses I receive to "Hi, I'm Gina and I'm a business lawyer." I understand it's not a reflex to hire a lawyer when you start a business. Sure, if you want to file for divorce, bankruptcy, get arrested, or get into an accident, one of your first calls is to a lawyer. Not so with starting a business – why?

One theory is that many business owners make it look easy. Seeing the proprietor of the neighborhood coffee shop on a busy Sunday morning might suggest his café is a well-oiled machine and he has nary a care in the world as he makes small talk with his regulars. In fact, his mind is elsewhere, worrying about the increased costs of the cacao that goes into one of his most popular drinks, making a mental note to respond to the claim for unpaid wages filed by one of his disgruntled former employees, and figuring out how he's going to pay to ship his one espresso maker to Italy for a \$3,000 repair and find a substitute in the meantime.

Every business needs a lawyer...and a CPA, and an insurance agent, and a banker. Just as a leader is surrounded by a cabinet comprised of experts in various fields, a business owner can't expect to know everything about law, taxes, insurance, financials, etc. So, rather than wing it and hope for the best, the most successful business owners will focus on what they do best and delegate the rest.

Ideally, involve these professionals far in advance of anything hitting the fan. Sure, plenty of advisors will react to a situation but, just like having your A/C go kaput in the middle of summer, it's more expensive and painful to fix in an emergency than by keeping up on maintenance. Many advisors work proactively to protect their clients from issues and make running the business a bit easier. CPAs help you plan so you aren't surprised by a giant bill at tax time. Insurance agents will make sure you have coverage. Lawyers will work proactively to ensure your company is structured properly, your contracts are enforceable, your policies are in place, and your business is protected. The sooner you involve your advisors, the sooner we can help and the better you'll sleep at night.

Have a question for one of our guest experts?

Email cfoley@business.nv.gov

Resource Organization Spotlight: Nevada Business Environmental Program



The Nevada Business Environmental Program (BEP) provides confidential environmental compliance, permitting and management assistance to help you improve your business. Compliance is a necessity, but there is also a business case for environmental sustainability: many environmental and energy improvements can save money and minimize the environmental impacts of a business.

BEP is based in The College of Business at the University of Nevada, Reno. The program was started in 1988 and is affiliated with the Nevada Small Business Development Center, a statewide economic development group. The Nevada Division of Environmental Protection understands that not everyone is comfortable calling their offices and provides funding support for BEP to act as a neutral technical assistance program, particularly as a resource for small and medium sized businesses.

Regulatory compliance and permitting can be confusing, BEP is here to help. Staffed with a small team of environmental professionals, BEP serves the entire state through offices in Reno and Las Vegas. BEP assists hundreds of businesses annually through consultations, on-site assistance, and training.

BEP can help startup and existing businesses with:

- Answering environmental compliance and permitting questions
- Preparing permit applications, forms and plans
- Developing sustainability plans and strategies
- Identifying waste minimization, water conservation and energy efficiency opportunities

BEP provides one-on-one business advisory services through emails and phone calls. Our toll-free assistance hotline can be reached at 800-882-3233 or you can email help@unrbep.org. BEP staff are also available, by appointment, for meetings and site visits to provide a fresh set of eyes. We also offer workshops and seminars on topics such as basic hazardous waste identification, management and disposal. See our events calendar online at www.unrbep.org.

All BEP services are provided at no cost and all assistance is strictly confidential.



Nevada Business Environmental Program
The College of Business, University of Nevada, Reno
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BEP Ushers Winnemucca Client Through Permit Process

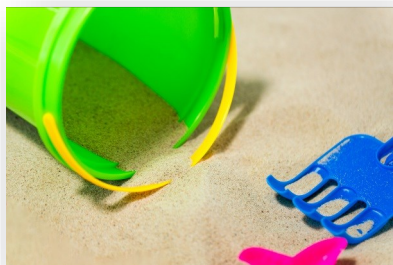
When Britt Johnson of Sunrise Minerals, LLC in Winnemucca was referred to BEP by the Nevada Division of Environmental Protection (NDEP), he was quite concerned as he had just learned that they missed a deadline for applying for a Class II air quality permit renewal for their mining operation. Because he had missed the opportunity to renew the existing permit, Mr. Johnson needed to quickly submit an application for a brand new air quality permit. It was imperative to the success of Mr. Johnson's business operations that the permit application be prepared quickly and thoroughly to ensure a quick review; if his existing permit lapsed before a brand new one could be issued, his seasonal mining operations could be significantly delayed.

Mr. Johnson contacted Eric Florio, an air quality business advisor with BEP, who provided quick assistance with completing the new air quality permit application. While a new permit could not be secured before the existing permit expired, the new permit application was deemed complete within a short period of time and Mr. Johnson was able to resume seasonal operations with only a small delay. Had it not been for the quick work of Mr. Florio, and the cooperation of Mr. Johnson and representatives of NDEP, the facility could have lost significant 2019 operating time causing potential monetary and job losses. "Eric Florio and Chris Lynch of BEP are a joy to work with," said Mr. Johnson. "Through them, all parties stayed on task to complete the work accurately and timely for an end result that mitigated the impact of the lapse in filing as much as possible. We highly recommend BEP."

If your facility has an air quality permit, pay careful attention to your 70 day deadline for permit renewal applications. If you have any questions or need assistance, contact BEP.



Nevada's Sandbox for Innovative Tech



Technology innovations continue to push and re-shape the boundaries of our everyday world. Whether it's ride-sharing services like Uber and Lyft, electronic retail, artificial intelligence, or voice-

activated *everything*, today's tech innovations are disrupting old ways of life and doing business.

In such a dynamic environment, the future will belong to those who are prepared for change and able to adapt to it. For government, this means assessing systems of regulatory oversight that were developed using assumptions or standards that may no longer meet the realities of the industries in question.

During this year's Nevada legislative session, a bill was passed that aims to address this challenge, while encouraging economic development on the cutting edge of technology.

Senate Bill 161, sponsored by Senators Ben Kieckhefer and Pat Spearman, authorizes the Department of Business and Industry to establish a Regulatory Experimentation Program for Product Innovation – or what is known as a “regulatory sandbox” – for Nevada.

Like an actual sandbox, where children can explore and interact in a controlled environment with minimal supervision, a “regulatory sandbox” is a program under which companies can introduce and test innovative products or services under temporary exemptions from certain statutory or regulatory requirements.

In the case of Nevada's regulatory sandbox, the focus will be on financial products or services licensed and regulated under Chapters 645A, 645B, 645F, and 645G of the Nevada Revised Statutes (NRS), and titles 55 and 56 of NRS. Innovative products or technology in these areas are generally referred to as “fintech” (short for “financial technology”).

During hearings on SB161, legislators heard supporting testimony from several blockchain companies, as well as the Nevada Technology Association and Electronic Transactions Association. The bill subsequently passed both houses of the Nevada Legislature and was approved by the Governor on June 13. This made Nevada the fourth state in the country to authorize a regulatory sandbox program for fintech – the first three being Arizona, Wyoming and Utah.

The immediate goal of the Nevada program will be to offer a temporary regulatory environment that facilitates the lean startup approach to fintech business development,

while protecting consumers and giving regulators the chance to anticipate future issues or challenges with the technologies being tested. The larger goal will be to evolve Nevada's ecosystem of support for business innovation in the areas of advanced or emerging technology, and to encourage such innovators and businesses to make Nevada home.

Although numerous administrative steps must be taken before Nevada's regulatory sandbox is operational and ready to accept applications, the Department of Business and Industry anticipates launch of the program in 2020. If you want to know more, stay tuned to our website at www.business.nv.gov for information and updates as they become available.

Nevada Financial Institutions Division Issues Cryptocurrency Regulatory Guidance

The Nevada Financial Institutions Division (NFID) regulates financial institutions within Nevada to maintain a safe financial industry and to protect consumers and the overall public interest. Over time, the NFID has monitored the growth and expansion of the blockchain, bitcoin, and virtual currency industries. Recently, several businesses and interested persons contacted the NFID to determine if a license was required to operate within the State of Nevada. Based upon the business model presented, a license may have been required for money transmission under NRS 671. Thereafter, S.B. 195 was introduced during the 2019 legislative session. During the session, the NFID stayed the issuance of licensure determinations as S.B. 195 proposed to create a new statutory license program for entities already licensed under NRS 671 and continuing to issue licenses under NRS 671 may have created an undue burden for licensees if they were then required to transition to a new statutory scheme within a few months or a year after the session. However, S.B. 195 did not pass, and the NFID has resumed licensing this industry as money transmitters, where applicable.

It is important to note the NFID issues a licensure determination based upon a review of an entity's specific business model in order to determine the relevant chapter of the Nevada Revised Statutes (NRS) the entity is regulated under, if any. Generally, an entity engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits is required to have a license under NRS 671. However, if an entity proposes to serve as a digital custodian for any form of digital currency, then the business may be regulated as a trust company under NRS 669.

Any entity that facilitates the transmission of or holds fiat or digital currency by way of brick-and-mortar, kiosk, mobile, internet or any other means, should contact the NFID to request a licensure determination. Contact information for the Financial Institutions Division can be located on their website at <http://fid.nv.gov/Contact/Contact Us>.

Double Down: Stacking Federal and State New Market Tax Credits

Assembly Bill 446 authorized a second round of state New Markets Tax Credits (NMTC) to help bring capital investment into low-income and distressed Nevada neighborhoods. Modeled after the federal NMTC program which authorizes \$3.5 billion in tax credits annually, the Nevada program has attracted an additional \$88 million in federal NMTC dollars into the state. With the latest federal round of NMTC being announced in May 2019 and the State of Nevada NMTC allocation of \$200 million being authorized in July 2019, businesses in the state are once again poised to attract federal NMTC investment.

Combining state and federal NMTC is called “stacking” and is not only allowed but encouraged in the new Nevada law. Although there were very few changes or additions to the Nevada Revised Statute (NRS 231A) that authorizes this program, one of these additions confirmed that without doubt, stacking is allowed.

The Nevada Department of Business and Industry, the department that administers the state program, expects to announce allocation before the end of the year. In addition, it is expected that the federal program will announce another allocation in the spring of 2020. This timing will encourage state and federal NMTC stacking which will allow qualified businesses to as much as double the investment from Community Development Entities (CDEs) that manage the investments.

How can a Nevada business learn more about this type of financing?

The Department offers educational events both north and south to help businesses learn about these programs. Most recently, B&I co-hosted an event with Assemblywoman Dina Neal, sponsor of the Nevada NMTC program legislation, in North Las Vegas on September 19. More than 60 business people attended the four hour event to learn from eight state and federal CDEs how to qualify for NMTC investment. In addition, businesses had time to discuss their prospects during one-on-one sessions with the experts.

The department plans to hold more educational events over the next six months to get the word out about how this important financing tool works. Please check the calendar of events on our website (<http://business.nv.gov>) and social media accounts for upcoming seminars. You can also email kschnog@business.nv.gov to be notified of any events or updates about the program.



Assemblywoman Dina Neal presents at the September 19 NMTC workshop



Panelists discuss the NMTC program during the September 19 event

Who qualifies for New Market Tax Credits investment?

Basic qualifications and disqualifications include:

- Located in a low-income census tract. Find out at <https://www.novoco.com/resource-centers/new-markets-tax-credits/data-tools/nmtc-mapping-tool>
- Be a small business as defined by the Small Business Administration. See the size standards at www.SBA.gov
- Bring jobs and a positive community impact to the area
- Not be on the ineligible list of businesses including: liquor stores, golf courses, gambling facilities, massage parlors, bath houses and more. See NRS 231A for a complete list.
- Not receive greater than 15% of income from rental income. In other words, the NMTC funding cannot be used solely for housing.

To find out more information about NMTC funding and how to procure investment for your company, go to the Department of Business and Industry website, http://business.nv.gov/Business/Access_to_Capital/NMTC/Nevada_New_Markets_Tax_Credit_Program/; or the CDFI website at www.cdfifund.gov. Both websites list CDEs favorable to investing in Nevada.

Nevada OSHA Penalties Increased to Match Federal Program

Beginning October 1, penalties for violations of the Nevada Occupational Safety and Health Act have increased. Any investigation opened on or after October 1, 2019 that results in a citation will see the associated penalty increase to match the federal OSHA penalty structure.

The increased penalties are a result of the passage of Senate Bill 40 during the 2019 legislative session. Senate Bill 40 authorizes the Division to adopt penalties in amounts not to exceed those imposed by federal OSHA's enforcement program, with the intent of aligning Nevada's state-issued penalties with those issued by federal OSHA as required by the Act.

Nevada OSHA's administrative penalties have not increased since 1990 and have carried a maximum penalty of \$7,000 for serious violations. The new penalty structure adopted following the passage of SB 40 increases the maximum penalty for serious violations – which have a high likelihood of seriously injuring or killing a worker – to \$13,260. In instances where violations are determined to be willful in nature, or in certain instances of repeated violations, maximum penalties will increase from \$70,000 to \$132,598 per violation.

Nevada OSHA will continue to match penalties assessed by federal OSHA, including any penalty adjustments implemented as a result of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

The bill also extended the time period available to initiate the process to contest citations and penalties to entities re-

ceiving a notice of citation. This change in the statutory contest period came about through the request for an extension of time from industry representatives. Effective for all citations issued on or after October 1, 2019, entities will have 30 calendar days to notify the agency of their intent to contest a citation; the previous time limit was 15 working days.

The Division of Industrial Relations also wants you to know that you can protect your employees and save money at the same time! The Division's Safety Consultation and Training Section (SCATS) provides Nevada employers with free consultation services focused on the prevention of workplace injury

and illness, and identification and remediation of hazards that may result in OSHA citations should an inspection occur. During FY2019, SCATS performed 766 on-site consultation visits for approximately 650 employers across the state. During these visits, 4,158 serious hazards were found.

During the SCATS consultation process, employers are given the opportunity to resolve the

hazard without penalty. If each of the 4,158 hazards found during SCATS consultations were found during an OSHA inspection, each violation would have been subject to a penalty of up to \$7,000 (prior to October 1), costing Nevada employers over \$29 million in fines. Under the adjusted penalty structure put into effect on October 1, those same penalties would have totaled over \$55 million in fines.

Employers, especially those within the construction, manufacturing and hotel industries, are encouraged to contact SCATS to schedule a free consultation at 1-877-4SAFENV(472-3368) or visit www.4safenv.state.nv.us to learn more.



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